

§ 658.418

(3) Where the State agency does not have the facilities to conduct hearings by telephone pursuant to paragraph (m)(1) or (m)(2) of this section, the State agencies in the States where the parties are located shall take evidence and hold the hearing in the same manner as used for appealed interstate unemployment claims in those States, to the extent that such procedures are consistent with § 658.416.

§ 658.418 Decision of the State hearing official.

(a) The State hearing official may:

(1) Rule that the case is improperly before it, that is, that there is a lack of jurisdiction over the case;

(2) Rule that the complaint has been withdrawn properly and in writing;

(3) Rule that reasonable cause exists to believe that the request has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing;

(4) Render such other rulings as are appropriate to the issues in question. However, the State hearing official shall not have jurisdiction to consider the validity or constitutionality of JS regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including the investigations and determinations of the local and State offices and any evidence provided at the hearing, the State hearing official shall prepare a written decision. The State hearing official shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefor to the complainant, the respondent, entities serving as *amicus* capacity (if any), the State office, the Regional Administrator, and the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, Department of Labor, room N2101, 200 Constitution Avenue, NW., Washington, DC, 20210. The notification to the complainant and respondent must be sent certified mail.

(c) All decisions of a State hearing official shall be accompanied by a written notice informing the parties (not including the Regional Administrator, the Solicitor of Labor, or entities serving in an *amicus* capacity) that, if they

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are not satisfied, they may, within 20 working days of the certified date of receipt of the decision, file an appeal in writing with the Regional Administrator. The notice shall give the address of the Regional Administrator.

FEDERAL JS COMPLAINT SYSTEM

§ 658.420 Establishment of JS complaint system at the ETA regional office.

(a) Each Regional Administrator shall establish and maintain a JS complaint system at the DOL regional office level.

(b) The Regional Administrator shall designate DOL officials to handle JS-related complaints as follows:

(1) The handling of all JS-related complaints alleging discrimination by race, color, religion, national origin, sex, age, or physical or mental status unrelated to job performance (handicap), shall be assigned to a Regional Director for Equal Opportunity and Special Review (RDEOSR) and, where appropriate, handled in accordance with procedures at 29 CFR part 31.

(2) The handling of all JS-related complaints other than those described in paragraphs (b)(1) of this section, shall be assigned to a regional office official designated by the Regional Administrator, provided that the regional office official designated to handle MSFW complaints shall be the Regional MSFW Monitor Advocate.

(c) The Regional Administrator shall designate DOL officials to handle non-JS-related complaints in accordance with § 658.422: *Provided*, That the regional official designated to handle MSFW non-JS-related complaints shall be the Regional MSFW Monitor Advocate.

(d) The Regional Administrator shall assure that all JS-related complaints and all correspondence relating thereto are logged, with a notation of the nature of each item.

§ 658.421 Handling of JS-related complaints.

(a) No JS-related complaint shall be handled at the ETA regional office level until the complainant has exhausted the State agency administrative remedies set forth at §§ 658.410